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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Parts 32 and 64 of the Commission's Rules to Account for Transactions between Carriers and Their Nonregulated Affiliates	)	CC Docket No. 93-251

REPLY COMMENTS OF THE BELL ATLANTIC TELEPHONE COMPANIES[1]

The comments filed in response to the Notice of Proposed Rulemaking (NPRM) demonstrate that the Commission should not adopt the proposed affiliate transaction rules. The overwhelming majority of parties agrees that the proposed rules would impose immense and unnecessary burdens and costs on the carriers subject to them, for no other reason than to solve imagined problems which have not been shown to exist and do not exist. The parties also show that the proposed rules are inconsistent with the Commission's policy initiatives to promote efficiency and foster competition. Moreover, because the proposed rules would introduce so much subjectivity and complexity into the process, they would impair, not enhance, the Commission's ability to audit and monitor affiliate transactions. In short, the comments demonstrate that there is no justification for the Commission to adopt the rules it has proposed.

[1] The Bell Atlantic telephone companies ("Bell Atlantic") are The Bell Telephone Company of Pennsylvania, the four Chesapeake and Potomac telephone companies, The Diamond State Telephone Company and New Jersey Bell Telephone Company.

The few parties which support the proposed rules[2] do little more than "vote" in favor of them.[3] While these parties generally repeat the tentative conclusions reached in the NPRM, however, they offer no independent basis for those conclusions. They also fail to acknowledge the tremendous costs and burdens -- most of which would fall on local ratepayers - the proposed rules would impose. In addition, not one of the parties cites a single instance in which the existing rules were abused, or were somehow manipulated to disadvantage ratepayers. In fact, one of those parties, ICA, laments the absence in the NPRM of the "factual bases" to support the Commission's proposals.[4] While ICA advises that "[t]hese facts should be elaborated in more detail if the Commission adopts any part of these proposals," (Id.) it too fails

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[2] See the comments of the Information Technology Association of America, the Public Utility Commission of Texas ("PUC of Texas"), the Tennessee Public Service Commission Staff ("Tennessee PSC Staff"), the International Communications Association ("ICA"), and MCI Telecommunications Corporation ("MCI").

[3] To the extent the parties go further, they argue for the more onerous and complicated of the alternatives proposed in the NPRM. They are not entirely consistent, however. The PUC of Texas, for example, suggests that the rules should prohibit affiliate transactions from being recorded at tariff rates if the tariff offers service on an Individual Case Basis. Comments of the PUC of Texas at 3. The Tennessee PSC Staff, by contrast, suggests that "the definition of tariff rates be extended to include Commission approved contracts between the regulated carrier and specific customers for the provision of services not otherwise tariffed and made available to the public." Comments of the Tennessee PSC Staff at 2.

[4] ICA Comments at 6. Of the parties which support the proposed rules, ICA is the only one which appears to acknowledge that the proposed rules could be "burdensome," and it recommends "adoption of a few of the less restrictive options proposed in the Notice." ICA Comments at 5.

to provide any factual basis for the Commission to do so.

Of the local exchange carriers' three largest customers, MCI is the only one which supports the proposed rules. Despite its claims, however, it is clear that MCI is not seeking protection as a customer. Instead, MCI is seeking to use this proceeding to gain an anticompetitive advantage over incumbent local exchange carriers. Last week MCI announced its plans to "spend $2 billion to enable business customers in 20 of the largest markets, including Washington, to bypass the local telephone company when connecting to long-distance service networks."[5] The news release made it clear that MCI also intends to provide local service where it can.[6] In these circumstances, MCI's motive in this proceeding is clearly to saddle its competitors with even more excessive burdens and costs than they have under the existing rules -- burdens and costs which MCI will not bear. The Commission should adopt rules which promote competition, not a specific competitor.

While AT&T's comments are largely devoted to arguing that the Commission's affiliate transaction rules should not apply to it, it does explain that "many of the Commission's specific proposals are thoroughly impractical, either because they are virtually impossible to implement as currently proposed, or because the costs of creating the systems necessary to implement the rules would be staggering." AT&T's Comments at 15. AT&T also notes that

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[5] The Washington Post, Jan. 5, 1994, §F at 1 ("MCI Unveils Plan to Bypass Baby Bells").

[6] Id.

"the new rules could discourage self-supply, even when such transactions create significant efficiencies. The consequences of this bias 'would be higher costs, lower productivity and a loss of competitiveness.'" Id.

The proposed rules, moreover, would do more than simply frustrate the Commission's objectives of encouraging efficiency and fostering competition. Coopers & Lybrand, an independent public accounting firm which is experienced in auditing carriers' compliance with the Commission's rules, explains that the proposed rules "will add substantial difficulty to the Carrier's affiliate transaction process and complexity and subjectivity to the audit process thereby diminishing the enforcement mechanism that the FCC currently has in place." Comments of Coopers & Lybrand at 1 (emphasis added). That is because applying the rule governing the transfer of assets (of which there have been very few) to the provision of services (of which there are very many) will greatly increase the number of times carriers must estimate market value, and services are much less susceptible to that process and harder to audit.

The only conclusion which can be drawn from the comments is that there is no public interest to be served by adopting the proposed rules. Instead, those rules are inconsistent with the Commission's initiatives to promote efficiency, foster competition and reduce regulatory burdens. They are also unduly complex, and will be costly and burdensome to administer, for both carriers and their affiliates. The proposed rules will not benefit ratepayers

but will discourage efficiencies and impose a substantial competitive disadvantage on local exchange carriers. The proposed rules should, therefore, not be adopted.

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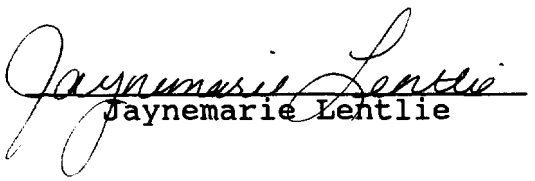
January 10, 1994

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Reply Comments of the Bell Atlantic Telephone Companies" was served this 10th day of January, 1994, by first class mail, postage prepaid, on the parties on the attached list.



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